

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

William Bennis,

Civil No. 12-341 (SRN/JSM)

Plaintiff,

v.

ORDER

Minnesota Hockey Ventures Group,
d/b/a Minnesota Sports and
Entertainment,

Defendant.

Jay Tentinger, Tentinger Law Firm, PA, 1380 Corporate Center Curve, Suite 318, Eagan, Minnesota 55121, for Plaintiff.

Thomas J. Conley, Law Office of Thomas J. Conley, 80 South Eighth Street, Suite 900, Minneapolis, Minnesota 55402, for Defendant.

SUSAN RICHARD NELSON, United States District Judge

This matter is before the Court on Plaintiff's Appeal/Objection Regarding Magistrate Judge Mayeron's Order of December 17, 2012 [Doc. No. 31]. "The standard of review applicable to an appeal of a magistrate judge's order on a nondispositive issue is extremely deferential." Reko v. Creative Promotions, Inc., 70 F. Supp.2d 1005, 1007 (D. Minn. 1999). This Court will reverse such an order only if it is clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a); D. Minn. LR 72.2(a).

The Magistrate Judge's Order of December 17, 2012 ("the Order") granted in part and denied in part a motion to compel brought by Plaintiff William Bennis concerning the deposition of witness Rachael Johnson. Magistrate Judge Mayeron ordered Defendant

Minnesota Hockey Ventures Group to produce Ms. Johnson for the completion of her deposition for a period of forty-three minutes. (Order ¶ 2 [Doc. No. 30].) In addition, the Magistrate Judge ruled that Ms. Johnson may appear for the deposition telephonically. (Id. ¶ 3.) Finally, Magistrate Judge Mayeron denied Plaintiff's request for attorney's fees associated with bringing the motion to compel.

Plaintiff argues that the Magistrate Judge's ruling is contrary to law, as well as custom and practice. (Pl.'s Appeal at 2 [Doc. No. 31].) Bennis contends that because of the number of exhibits, 43 minutes is an insufficient amount of time in which to complete Johnson's deposition. (Id.) In addition, Bennis wishes to depose Johnson in person. (Id.) Finally, Bennis appeals the denial of the award of attorney's fees. (Id. at 2-3.)

Pursuant to Fed. R. Civ. P. 26(b)(2)(A), the Court has discretion to set certain conditions on discovery, including, for instance, the length of depositions. As noted, the Magistrate Judge's Order granted in part and denied in part Plaintiff's motion. (Order of 12/17/12 [Doc. No. 30].) The Magistrate Judge's decision not to award attorney's fees was within the Court's discretion. See Fed.R.Civ.P. 37(a)(5)(C) (stating that apportionment of expenses are permissive where the Court grants a motion in part and denies a motion in part). Having conducted the required review of Magistrate Judge Mayeron's Order, the Magistrate Judge's ruling was neither clearly erroneous nor contrary to law. The appeal is therefore denied.

THEREFORE, IT IS HEREBY ORDERED THAT:

Plaintiff's Appeal/Objection Regarding Magistrate Judge Mayeron's Order of December 17, 2012 [Doc. No. 31] is **DENIED**.

Dated: January 14, 2013

s/Susan Richard Nelson
SUSAN RICHARD NELSON
United States District Judge